

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHWESTERN DIVISION

APRIL MOORE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 20AO-CC00189
	)	
JUAN PENDERGRASS and	)	
MAC TRANSPORTATION SERVICES,	)	
LLC, et al.	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

COMES NOW Defendant MAC Transportation Services, LLC (“MAC Transportation”), by and through the undersigned counsel, pursuant to 28 U.S.C. §§ 1441 and 1446 and 28 U.S.C. § 1332, without waiving and expressly preserving all defenses under Rule 12(b) of the Federal Rules of Civil Procedure, and hereby removes this action from the Circuit Court of Jasper County, Missouri to the United States District Court for the Western District of Missouri, Southwestern Division. In support, Defendant MAC Transportation states, alleges and avers as follows:

**I. FACTUAL BACKGROUND**

1. This is a civil action currently pending in the Circuit Court of Jasper County, Missouri under the case caption *April Moore v. Juan Pendergrass, et al.*; Case No. 20AO-CC00189.

2. Defendant has not filed an Answer to the state court Second Amended Petition as of the filing of the instant removal.

3. Other than Plaintiff’s Second Amended Petition, no other state court filing has been served upon Defendant MAC Transportation. A copy of the Second Amended Petition is attached

hereto as **Exhibit A**. See 28 U.S.C. § 1446(a) (requiring that the removing defendant file copies of all process, pleadings, and orders served upon such defendant).

## **II. PROCEDURAL REQUIREMENTS FOR REMOVAL**

4. The removing party is Defendant MAC Transportation.

5. Defendant was served with a copy of the Second Amended Petition on or after November 5, 2020. While preserving all available defenses under Rule 12 of the Federal Rules of Civil Procedures, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because Defendant filed this Notice of Removal within 30 days of service.

6. Defendant MAC Transportation will file its Answer or otherwise respond to Plaintiff's Second Amended Petition within the time limits set forth in F.R.C.P. 81(c).

7. Written notice of the filing of this Notice of Removal is concurrently being given to all adverse parties. A true and correct copy of this Notice of Removal and Notice of Filing of Notice of Removal are concurrently being filed with the Clerk of the Circuit Court of Jasper County, Missouri, as required by 28 U.S.C. § 1446(d). A copy of this Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**.

8. Defendant MAC Transportation has a right of removal where an action is brought in state court over which the district court has original jurisdiction. See 28 U.S.C. § 1441(a). As set forth below, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332.

## **III. DIVERSITY JURISDICTION: 28 U.S.C. § 1332**

9. According to 28 U.S.C. § 1446(a), a notice of removal must contain a short and plain statement of the grounds for removal. Defendant's removal of this action is based upon diversity of citizenship pursuant to 28 U.S.C. § 1332.

10. 28 U.S.C. § 1332(a)(1) provides that “the district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000 . . . and is between . . . citizens of different States.”

11. Plaintiff April Moore is a citizen and resident of Enid, Oklahoma (*See* address listed for Plaintiff on Case.net under Parties & Attorneys tab for Case No. 20AO-CC00189).

12. Mac Johnson is the sole member of Defendant MAC Transportation Services, LLC. Mac Johnson is a citizen and resident of Chino, San Bernardino County, California.

13. Defendant Juan Pendergrass is a citizen and resident of California (*See* address listed for Defendant Pendergrass on Case.net under Parties & Attorneys tab for Case No. 20AO-CC00189)..

14. Because Plaintiff is a resident/citizen of Enid, Oklahoma and Defendants are residents/citizens of California, this action is between citizens of different states and/or countries.

15. The amount in controversy exceeds \$75,000. Plaintiff’s most recent demand before filing the present lawsuit was in excess of \$75,000.

16. Accordingly, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, because the action is between citizens of different states and the amount in controversy exceeds \$75,000.

WHEREFORE, Defendant MAC Transportation Services, LLC hereby gives notice that this action is removed from the Circuit Court of Jasper County, Missouri to the United States District Court for the Western District of Missouri, and Defendant MAC Transportation Services, LLC further requests that this Court exercise jurisdiction over this action as though it had been originally instituted in this Court subject to Defendant’s right to answer or otherwise respond and

assert all available defenses including but not limited to those defenses available under Rule 12 of the Federal Rules of Civil Procedures within the time limits set forth in F.R.C.P. 81(c).

Respectfully submitted,

FRANKE SCHULTZ & MULLEN, P.C.

*/s/ Matthew M. Clifford*

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**ATTORNEYS FOR DEFENDANT MAC  
TRANSPORTATION SERVICES, LLC**

**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the above and foregoing was filed with the Court electronically and sent electronically via e-mail or U.S. Mail on this 4<sup>th</sup> day of December, 2020, to:

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**Attorney for Plaintiff**

*/s/ Matthew M. Clifford*

**Attorney for Defendant MAC  
Transportation Services, LLC**